

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

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CITGO PETROLEUM CORPORATION,
Plaintiff,

Case No. 1:21-cv-00389-GHW

-against-

ASCOT UNDERWRITING LIMITED (FOR AND
ON BEHALF OF THE MEMBERS OF LLOYD’S
SYNDICATE 1414), *et al.*,

Defendants.

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JOINT STIPULATIONS OF FACT AND LAW

Pursuant to this Court’s March 31, 2023 Order (Dkt. No. 187) and Rule 5 of Your Honor’s Individual Rules of Practice in Civil Cases (rev. February 7, 2023), Plaintiff CITGO Petroleum Corporation (“CITGO”) and Defendants Ascot Underwriting Limited (for and on behalf of the members of Lloyd’s Syndicate 1414), Pioneer Underwriting Limited (for and on behalf of the members of Lloyd’s Consortium No. 9146), MS Amlin Underwriting Limited (for and on behalf of the members of Lloyd’s Syndicate 2001), Travelers Syndicate Management Limited (for and on behalf of the members of Lloyd’s Syndicate 5000), Brit Syndicates Limited (for and on behalf of the members of Lloyd’s Syndicate 2987), Sompo International Insurance (for and on behalf of the members of Lloyd’s Syndicate 5151), Chaucer Syndicates Limited (for and on behalf of the members of Lloyd’s Syndicate 1084), Markel Syndicate Management Limited (for and on behalf of the members of Lloyd’s Syndicate 3000), Neon Underwriting Limited (for and on behalf of the members of Lloyd’s Syndicate 2468) (which members are, collectively, “Lloyd’s Underwriters”), and Starstone Insurance SE (collectively with Lloyd’s Underwriters, “Defendants”) hereby agree

and stipulate, solely for purposes of and for use in the above-captioned lawsuit (the “Litigation”), as follows:

I. The Parties and the Insurance Relationship

1. Plaintiff CITGO Petroleum Corporation (“CITGO”) is a subsidiary of Petróleos de Venezuela, S.A. (“PDVSA”), a state-owned Venezuelan petrochemical company.

2. The Defendants issued Marine Cargo Reinsurance Policy No. B1263EG0466118, for the policy period of June 1, 2018 to June 1, 2019 (“the Policy”).

3. The Policy lists CITGO as the original insured; Illuminant Insurance Company (“Illuminant”) as the Reinsured; and PDV Insurance Company Limited (“PDVIC”) – Bermuda, as the retrocedent.

4. By Deed of Novation executed in February 2019 by and among PDVIC, CITGO, Illuminant Insurance Company, and Defendants, PDVIC assigned to Trimark Insurance Company, Ltd., all of PDVIC’s rights and obligations under the Policy.

5. By Claim Presentation Agreement dated December 21, 2020, CITGO and the Defendants agreed that CITGO may pursue its insurance claims directly against the Defendants, without the participation of Trimark and Illuminant, as though the Defendants were in direct contractual privity with CITGO under the Policy.

6. The premium for the Policy has been paid in full, and no additional premium is due in respect of the Policy.

7. While the parties dispute whether CITGO’s insurance claim is a covered claim under the parties’ insurance contract or otherwise has substantive merit, the parties agree that all conditions precedent for the bringing of the insurance claim have been satisfied, excused, or waived.

II. Policy Choice of Law and Subject Matter

8. The Policy states that it “shall be governed by and construed in accordance with the laws of the State of New York, United States of America.”

9. The subject matter insured by the Policy includes “Goods and/or Merchandise of every description consisting principally but not limited to Crude Oil and/or Refined Product(s) in bulk, materials and equipment.”

III. The Purchase and Loading of CITGO’s Cargo

10. In 2018, CITGO chartered a vessel named the M/T Gerd Knutsen—known as “the Gerd”—from Knutsen Shuttletanker Pool AS (“Knutsen”) to carry nearly one million barrels of crude oil (“the Cargo”) from Venezuela to Aruba.

11. More specifically, the Cargo consisted of two parcels CITGO purchased from its parent company, PDVSA: (1) a larger parcel of diluted crude oil (“DCO”) that was loaded onto the Gerd from January 20 to 22, 2019 at the Port of Jose, Venezuela; and (2) a smaller parcel of Pedernales crude oil that was loaded onto the Gerd on January 27, 2019 in the Gulf of Paria, Venezuela.

12. CITGO purchased the Cargo pursuant to Sales Contract No. 37000177 (the “Crude Supply Agreement”), entered into between CITGO and PDVSA Petróleo, S.A., the operating subsidiary of PDVSA, which governed CITGO’s purchase of crude oil from PDVSA for the period of April 1, 2016 to April 30, 2021.

13. By letter agreement dated January 1, 2019, CITGO and PDVSA modified certain terms of the Crude Supply Agreement as applied to various crude purchases anticipated in January 2019.¹

¹ It is undisputed that the reference to “January 1st, 2018” on the third page of this document is a typographical error.

14. On or about December 20, 2018, PDVSA issued RECAP Number GCR-VT-D-18-174, a sale document memorializing CITGO's intended purchase of (among other things) the DCO parcel that forms part of the Cargo.

15. On or about January 21, 2019, PDVSA issued RECAP Number GCR-VT-D-19-012, a sale document memorializing CITGO's intended purchase of (among other things) the Pedernales parcel that forms part of the Cargo.

16. From January 20–27, 2019, the Cargo was loaded onto the Gerd first in the Port of Jose, and later while it was anchored in the Gulf of Paria, Venezuela.

17. Before a bill of lading was issued to CITGO in respect of the Pedernales parcel, the United States imposed additional sanctions on PDVSA as explained above.

18. Before the Gerd could sail to Aruba with the Cargo, it first was required to request clearance from the harbor master, receive customs and immigration clearances for the crew and cargo, and receive an underwater hull inspection from the Bolivarian National Guard of Venezuela.

19. On or about January 28, 2019, the Gerd's master requested the necessary clearances to depart Venezuelan waters and set sail for Aruba.

20. The harbormaster, customs, and Venezuelan National Guard ignored those requests.

21. The Gerd's masters' requests for clearance to leave Venezuela's waters were either ignored or rebuffed for over a year.

22. On January 29, 2019, PDVSA informed the Gerd that it was required "to stay at anchorage and wait for further instructions."

23. On February 1, 2019, PDVSA requested that CITGO return the Cargo to PDVSA.

24. Mr. Guaidó appointed a new Managing Board of PDVSA; that resulted in the appointment of a new managing board of CITGO.

25. On February 22, 2019, the Guaidó-appointed CITGO Board of Directors met for the first time in Houston, Texas, and CITGO executives linked to the Maduro government were removed.

IV. The CITGO/Knutsen Arbitration

26. In July 2019, CITGO brought arbitration proceedings against the Gerd's owner, Knutsen, seeking to compel the Gerd, consistent with its charter, to transport the Cargo to Aruba.

27. Knutsen disputed that it was obligated to follow this order and counterclaimed against CITGO for demurrage and expenses incurred during the 13 months the Gerd lay at anchor in Venezuela. The amount claimed by Knutsen exceeded \$14 million.

28. CITGO and Knutsen ultimately settled the arbitration, and CITGO agreed to pay the sum of \$8,000,000 to Knutsen for the additional expenses arising from the Gerd being held in Venezuela.

* * *

SO STIPULATED AND AGREED:

PILLSBURY WINTHROP SHAW PITMAN LLP CLYDE & CO US LLP

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Date: September 19, 2023

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Date: September 19, 2023